

Amendments to the Claims

No amendments to the claims have been made.

Listing of Claims

Claims 1,2 and 5-20 are pending in the application

REMARKS/ARGUMENTS

Applicants respectfully disagree with the Examiner's reasons for rejecting claims 1,2 and 5-20. It is respectfully submitted that the claims are clearly non-obvious over the reference EP 0 224 352 to Booth, hereinafter "Booth" relied on by the Examiner. Applicants' claim 1 recites a dosage of ophthalmic solution at a predetermined liquid volume in the form of a jet or stream of droplets. The jet of each droplet is of a size sufficient to sustain momentum along a substantially horizontal path 5 cm in length from a dosage velocity of up to 25 m/sec from the delivery device. In addition, the claim states that the jet or stream of droplets is a moving volume of liquid having a length and diameter that remain substantially unchanged between exiting the delivery device and contacting the target site. Booth neither teaches nor suggests to one skilled in the art Applicants' claimed invention.

Reference Teaches Away from Applicants' Claimed Invention

Examiner contends Booth teaches Applicants' invention, but for the droplet diameter and discharge velocity, which one of reasonable skill in the art could determine with respect to claim 1. Specifically, Booth teaches an ocular drug delivery device and process for generating a spray for ocular treatment, which is achieved by raising the ophthalmic solution to a high potential within the spray nozzle of the device thereby causing the formulation to atomize as a spray of electronically charged droplets. Applicants acknowledge that the Booth reference discloses a dosage of 20 µl or less of ophthalmic solution, but the administration of that dosage is in the form of an electrically charged spray, not a jet or stream of droplets as required by the instant claims. In order to make a prima facie case for obvious, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings. MPEP 2145; Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc. 75 F.3d 1568, 1573. The mere fact that the prior